REMARKS

Claims 1-62 are pending in this application. No claims have been amended.

Claims 1, 19, 23, 26, 28, 30, 38, 43, 50, 52, 53, 55, 57, 59, and 60 are rejected for anticipation by US Patent 4,757,267 ("Riskin"). That rejection is respectfully traversed for the following reasons.

The *prima facie* elements of anticipation have been set forth in this file history. The Riskin reference fails to comply with those elements. In the discussion following, all italics are for emphasis.

Riskin describes a telephone system in which a customer telephones an 800 number, identifying goods of interest to the customer, and the system identifies the telephone numbers of one or more dealers of those goods nearby the customer. The system then "automatically connects" the customer to one of the nearby dealers. See Riskin's Abstract.

More specifically, with reference to Riskin's SUMMARY at column 2, line 61 through column 4, line 43, the telephone system receives a call from a customer (column 2, lines 61, 62,), acquires information regarding a product of interest to the customer (column 2, lines 64, 65), and, using the first six digits of the customer's telephone number, determines the customer's location with a V-H file (column 2, line 66-column 3, line 2). Next, the system searches a dealer database to find the telephone number of at least one dealer selling the product of interest who is nearest the customer, based upon V-H file co-ordinates (column 3, lines 60-65). Having selected a nearest dealer, the system dials the dealer and "cross-connects" the customer to the dealer (column 4, lines 5-10). Riskin's system is therefore a "call-routing" system that takes a call from a first telephone (the customer's telephone), routes the call to a second telephone (the dealer's telephone) based on product and proximity criteria, and completes the customer's call by connecting the first telephone to the second telephone. The customer can then speak through the first telephone to the dealer at the second telephone. This is different than the invention described in this application and set forth in the rejected claims.

In this application, a telephone call is *transferred* from a first telephone to a second telephone based on proximity of the telephones. In this regard, the *transfer* from the first to the second telephone accomplishes a result corresponding to call forwarding, although by novel means. See the specification at page 1, line 10 through page 2, line 9. In this application and the rejected claims, the telephone call is *not* routed from the first telephone to the second telephone and then connected to the second telephone so that a telephone call can be

conducted between the first and second telephones. Once the call is transferred, the telephone from which the call is transferred is not in the call.

Claims 1, 26, 28, 55, 57, 59, and 60

With respect to claims 1, 26, and 28, claim 1 is representative. In claim 1, a method for *transferring* telephone calls determines the proximity of a first telephone to a second telephone. The method then initiates "the transfer of calls from the first telephone to the second telephone in response to the proximity", and then acts to receive the calls on the second telephone. Riskin *routes* telephone calls from a first telephone to a second telephone but, for the reasons given above, omits the acts of "initiating the transfer of calls" and "receiving the calls".

Claims 55 and 57 depend from claim 30 and therefore include the elements and limitations of claim 30 which embrace "a call transfer mechanism for transferring telephone calls from the first telephone to the second telephone in response to proximity of the first telephone to the second telephone." For the reasons given above, Riskin omits a mechanism "for transferring telephone calls" from a first to a second telephone.

Claim 59 sets forth a call transfer mechanism that includes a means for determining proximity between a first and second telephone and a means "for transferring telephone calls directed to the first telephone to the second telephone in response to the determination of proximity." For the reasons given above, Riskin omits a means "for transferring telephone calls" from a first to a second telephone in response to proximity.

Claim 60 sets forth a call transfer mechanism that includes a means for determining a distance between a first and second telephone and a means "for transferring telephone calls directed to the first telephone to the second telephone in response to the determination of a distance." For the reasons given above, Riskin omits a means "for transferring telephone calls" from a first to a second telephone in response to a distance between the first and second telephones.

Claims 30, 38, 43, 50, 52, and 53

With respect to claims 30, 38, 43, 50, 52, and 53, claim 30 is representative. In claim 30, a system for *transferring* telephone calls in a communications network includes first and second telephones connected to the network and "a call transfer mechanism for transferring telephone calls from the first telephone to the second telephone in response to proximity of the first telephone to the second telephone." Riskin includes a mechanism to *route* telephone calls from a first telephone to a second telephone but, for the reasons given above, omits a mechanism "for transferring telephone calls from the first telephone to the second telephone" in response to their proximity.

Claims 2, 3, 34, 36, 61 and 62 are rejected for obviousness over Riskin in view of US Patent No. 6,144,318 ("Hayashi"). That rejection is respectfully traversed for the following reasons.

The *prima facie* elements of obviousness have been set forth in this file history. The combination of Riskin and Hayashi fails to comply with those elements. In the discussion following, all italics are for emphasis.

The contention is, first, that "Riskin discloses all the subject matter described in rejected claims 1 and 30" except for the first telephone including a wireless receiver. This is beside the point with respect to claims 61 and 62 which do not depend on either of claims 1 and 30. The applicants respectfully traverse this conclusion with respect to claims 2, 3 34 and 36 for the reasons given above: Riskin discloses routing, not transferring calls from a first to a second telephone. Further, Riskin's disclosure depends for distance calculation on a V-H file and a "complex transformation of longitude and latitude" to compute long distance telephone calls. Riskin says that the described "invention uses the V-H coordinate system to refer a caller to a dealer." See Riskin at column 3, lines 8-13. Since the V-H system relies upon the first six digits of a caller's telephone number to determine the caller's location, it appears to be a static system not adapted or adaptable for use with mobile telephones which can be any where and whose first six digits probably don't indicate the telephone's location. It is further contended that Hayashi discloses "a navigation system that uses position of a mobile unit to make call management decisions comprising a telephone includes a wireless location receiver, and in determining the proximity of the first to the second telephone using wireless location receiver data (see fig. 1, element 2, col. 4, lines 44-48)." The applicants respectfully disagree with this characterization of Hayashi. Hayashi discloses a navigation system that provides road guidance by means of a structure-shape map. Hayashi's system includes a present-position sensing unit 2 that includes "a data transceiver 23 for receiving a GPS correction signal utilizing a cellular phone or a FM multiplex signal...". See Hayashi at column 4, lines 46-48. The only role of the cellular phone is to act as a data transceiver receiving GPS information; there is no other telephone described; and, there is nothing in this passage to the effect that the present-position sensing unit 2 makes "call management decisions" or determines "the proximity of the first to the second telephone using wireless location receiver data". The applicants request that citation be given to specific passages in Hayashi where these references occur; if the opinion is that certain passages of Hayashi suggest these acts, then the applicants respectfully request an affidavit, Official Notice, or citation of a reference supporting such suggestion. Otherwise, it is submitted that the proposed combination fails to meet the requirements for *prima facie* obviousness with

respect to claims 2 and 34. As to claims 3 and 36, a call is transferred from the first telephone. No call is "transferred" in Riskin. In Hayashi, the "cellular phone" receives a GPS correction signal; no call is described as being received or sent in Hayashi's cellular phone. Thus, the proposed combination fails to meet the requirements for *prima facie* obviousness with respect to claims 3 and 36.

Claim 61 sets forth a call transfer mechanism that includes a means for receiving an indication of proximity between a first and second telephone and a means "for transferring telephone calls directed to the first telephone to the second telephone in response to the indication of proximity." For the reasons given above, Riskin omits a means "for transferring telephone calls" from a first to a second telephone in response to an "indication of proximity" between the two telephones. Hayashi does not satisfy this omission. For this reason and for the reasons given above, the proposed combination therefore fails to meet the requirements for *prima facie* obviousness.

Claim 62 sets forth a call transfer mechanism that includes a means for receiving an indication of distance between a first and second telephone and a means "for transferring telephone calls directed to the first telephone to the second telephone in response to the indication of distance." For the reasons given above, Riskin omits a means "for transferring telephone calls" from a first to a second telephone in response to an "indication of distance" between the two telephones. Hayashi does not satisfy this omission. For this reason and for the reasons given above, the proposed combination therefore fails to meet the requirements for *prima facie* obviousness.

Claims 5, 9, 10, 16 and 37 are rejected for obviousness over Riskin in view of Hayashi and US Patent 5,745,850 ("Aldermeshian"). That rejection is respectfully traversed for the following reasons.

The contention is, first, that "Riskin discloses all the subject matter described in rejected claims 1 and 30" except for the first telephone collecting positional data ...". The applicants respectfully traverse this conclusion for the reasons given above, among which are that Riskin discloses routing, not transferring calls from a first to a second telephone. It is further contended that Aldermeshian discloses "determining includes the first telephone collecting positional data to determine its proximity to the second telephone (see fig. 6, elements 610, 603, 613, see col. 13, lines 7-50)." The applicants respectfully disagree with this characterization of Aldermeshian. Aldermeshian describes a system in which one mobile device can "impersonate" another mobile device. This is done by having the impersonating mobile device take over the identification of the impersonating mobile device. The impersonated device then becomes dormant and the

impersonating device becomes active. The telephone system then directs calls to the impersonating device without first directing them to the dormant impersonated device. In the embodiment described at column 13, lines 7-50, impersonation is triggered by proximity of one device to another. However, impersonation means that the impersonating device will receive the calls directed to the impersonated device. There is no disclosure or suggestion that the calls will go to the impersonated device and then be transferred to the impersonating device. Indeed, the suggestion is that no transfer or even rerouting will take place; the impersonating device will simply act as and in place of the dormant impersonated device. If the opinion is that certain passages of Aldermeshian suggest the missing acts, then the applicants respectfully request an affidavit, Official Notice, or citation of a reference supporting such suggestion. Otherwise, it is submitted that the proposed combination fails to meet the requirements for *prima facie* obviousness with respect to claims 5, 9, 16, and 37.

Claims 11-13 and 31 are rejected for obviousness over Riskin in view of US Patent 5,928,325 ("Shaughnessy"). That rejection is respectfully traversed for the following reasons.

The contention is, first, that "Riskin discloses all the subject matter described in rejected claims 1 and 30 except for the communication network including a position node (PN), mobile switching center, and a base station. The applicants respectfully traverse this conclusion with respect to claims for the reasons given above, among which are that Riskin discloses routing, not transferring calls from a first to a second telephone. The further contention is that Shaughnessy teaches "determining" in terms of a positioning node tracking proximity of a mobile and "initiating" an MSC paging telephone; reference is made to Shaughnessy in the Abstract, in FIG. 1, at column 2, lines 22-46 and at column 1, lines 62-67. The applicants respectfully disagree with this characterization. In fact, none of those cited locations teaches or suggests a "PN", an "MSC", or a "base station". The applicants request that citation be given to specific passages in Shaughnessy where these references occur; if the opinion is that certain passages of Shaughnessy suggest these elements, then the applicants respectfully request an affidavit, Official Notice, or citation of a reference supporting such suggestion. Otherwise, it is submitted that the proposed combination fails to meet the requirements for *prima facie* obviousness with respect to claims 11-13 and 31.

Claims 14, 17, 21, 48, and 51 are rejected for obviousness over Riskin. That rejection is respectfully traversed for the following reasons.

The contention is, first, that "Riskin discloses all the subject matter described in rejected claims 1, 19, 30 and 43 except for using a star feature code, private code." The applicants respectfully traverse this conclusion with respect to claims for the reasons given above, among

which are that Riskin discloses routing, not transferring calls from a first to a second telephone. It is admitted that Riskin does not teach a star feature code or a private code but that use of those elements with Riskin would be obvious to the skilled artisan. The applicants disagree and respectfully request an affidavit, Official Notice, or citation of a reference supporting such suggestion. See MPEP § 2144.03. Otherwise, it is submitted that the proposed modification of Riskin fails to meet the requirements for *prima facie* obviousness with respect to claims 14, 17, 21, 48, and 51.

Claims 24, 25, 29, 56 are rejected for obviousness over Riskin in view of US Patent 56,236,868 ("Lygas"). That rejection is respectfully traversed for the following reasons.

The contention is, first, that "Riskin discloses all the subject matter described in rejected claims 1 except the telephone is an automobile mounted wireless telephone." The applicants respectfully traverse this conclusion with respect to claims for the reasons given above, among which are that Riskin discloses routing, not transferring calls from a first to a second telephone. Lygas does not rectify this omission. Accordingly, the proposed combination fails to meet the *prima facie* requirements of obviousness with respect to claims 24, 25, 29, and 56.

Accordingly, in view of these remarks, it is submitted that all claims are patentably distinct from the references of record, early notice of which is earnestly solicited.

Respectfully submitted

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